

IN THE SENATE OF THE UNITED STATES.

APRIL 5, 1880.—Ordered to be printed.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 1579.]

The Committee on Claims, to whom was referred the bill (S. 1579) entitled "A bill for the relief of B. B. Connor," have considered the same, and report thereon as follows:

This claim has been repeatedly before Congress. On the 21st of February, 1877, it was reported adversely by the Senate Committee on Claims. The report then submitted was as follows, viz:

[Senate report No. 696, Forty-fourth Congress, second session.]

Mr. CAMERON, of Wisconsin, from the Committee on Claims, submitted the following report (to accompany bill H. R. 3681):

The Committee on Claims, to whom was referred the bill (H. R. 3681) entitled "An act for the relief of B. B. Connor & Brother," have considered the same, and submit the following report:

The petitioners and one J. M. Swan, under the firm-name of B. B. Connor, Brother & Swan, prior and subsequent to March, 1862, were doing business at Nashville, Tenn. Swan has since died, and the petitioners, B. B. Connor and John Connor, are the surviving members of the firm.

Prior to February 22, 1862, E. M. Bruce & Co. resided at Nashville, Tenn., where they owned a pork-house, and were engaged in the business of packing pork for the Confederate Government. They received from the Confederate Government the live hog and returned to the Confederate Government the hams, sides, and shoulders cured, and by the terms of their contract retained the balance of the hog as their compensation. Out of this the lard, for which claimants now ask compensation, was manufactured.

Fort Donelson was captured on the 16th of February, 1862, and the Union Army took possession of Nashville on the 22d of the same month.

Connor, Brother & Swan claim to have purchased the lard in question of E. M. Bruce & Co., at Nashville, on the 18th day of February, 1862.

The deposition of a witness named John B. Lewis was taken in a proceeding relating to this lard, in the United States district court for the district of Kentucky, and he testifies in regard to the sale of the lard by Bruce & Co. to Connor, Brother & Swan, as follows, viz: "B. B. Connor & Bro. and Swan purchased the lard from E. M. Bruce & Co. on the 18th day of February, 1862, at Nashville, Tenn. After the purchase, it was ascertained by them that the lard was not what it was represented to be when they purchased it (prime lard), and they found it would only answer for manufacturing purposes." This witness further states in his said deposition, as follows, viz: "I was present at time of sale of said lard; the consideration was fifteen cents per pound in Confederate money. I do not know the actual value. Sales had previously been made at twenty cents per pound, but at the time of sale it was difficult to tell what was the actual value of anything. I do not remember that any one was present who

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the sale was made except the parties. A bill, or inventory, was rendered at the time; not a bill of sale."

J. N. Kellogg, another witness in said proceedings before the district court for the district of Kentucky, testifies as follows, viz: "During March, 1862, I was in the employ of the United States Government, among other things, to take charge of abandoned Confederate property. When the United States forces reached Nashville, I found a lot of pork at the house of Connor & Bro., perhaps seventy-five or one hundred thousand pounds. At first the Connors claimed the pork as their private property, but soon afterward said they had a lien or claim on it to the amount of \$2,000 or \$3,000, and if their claim was paid they would surrender it. Bruce & Co. were the packers of the Confederate States, and when they packed pork in barrels, each barrel bore their brand, and I found scattered over the country to the distance of ten miles, and in large quantities, pork that was represented then to have been packed by them."

Another witness, G. G. Fetter, testifies as follows, viz: "Warren Mitchell, Ch. Q. Armstrong, E. M. Bruce & Co., Doyle, Cummings & Co., were the reputed meat-packers of the Confederate southern army. When the United States Army reached Nashville, these parties left with the Confederate forces."

On the 24th of March, 1862, the firm of Connor, Brother & Swan shipped, on the steamer Diana, from Nashville, Tenn., to Louisville, Ky., the said lard, being 174 tierces and 120 barrels, which, on the 27th day of March, 1862, was seized at Louisville, Ky., by Charles B. Cotton, surveyor of customs for said port of Louisville, because the same was proceeding from the said State of Tennessee to the State of Kentucky in violation of the act of Congress regulating commercial intercourse with insurrectionary States.

On the 9th day of April, 1862, James Harlan, United States district attorney for the district of Kentucky, filed his libel of information in the district court of the United States at Louisville. After process served and due return made thereon, the claimants, by their counsel, filed their answer, in which they claimed exclusive ownership of the lard; that they had shipped it without first obtaining a permit because they did not know that such a permit was necessary; that if they had violated any law, or subjected their property to forfeiture, it was by reason of their ignorance of the law.

On the 2d day of May, 1862, said James Harlan, as such district attorney, filed exceptions to said answer, which exceptions, in substance, alleged that the matters and things in said answer contained did not show any valid cause why the articles described in the libel should not be condemned as forfeited to the United States.

Pending adjudication, and by consent of all parties, the lard, being a perishable article, was sold at public auction, the proceeds to await decision of the court.

On the 8th of May, 1862, the exceptions to the answer were argued, whereupon the court adjudged that said exceptions be sustained; and the court did thereupon adjudge that said lard be, and the same was, condemned as forfeited to the United States.

On the 10th of May, 1862, said claimants made their petition, addressed to the Secretary of the Treasury, for the remission of said forfeiture, to said court. The court thereupon ordered that proof, by deposition, might be taken by both parties. Under this order a large amount of proof was taken by the parties; all of which proof has been submitted to and examined by your committee.

The claimants subsequently presented their petition, accompanied by these proofs, to Hon. Salmon P. Chase, Secretary of the Treasury, praying for a remission of said forfeiture; and their prayer for the remission of the forfeiture was refused by the Secretary.

Whereupon the court ordered that the balance of the money arising from the sale, which, after deducting certain charges, amounted to \$4,420.32, be paid to W. D. Gallagher, surveyor of the port of Louisville, to be by him disposed of according to law.

Some of the findings of fact by the district court in the case are as follows, viz:

"The lard in controversy (or grease, as it is called) originally belonged to Bruce & Co., who owned a pork-house in Nashville, Tenn., and were there engaged in business.

"Bruce & Co. received from the Confederate Government the live hog; returned to the Confederate Government the hams, sides, and shoulders, cured; and, by the terms of their contract, retained the balance of the hog as their compensation. Out of this the lard or grease was manufactured.

"Between the 16th of February, 1862, the date of the capture of Fort Donelson, and the 22d of the same month, the date of the occupation of Nashville by the Union Army, Bruce & Co. left Nashville and went south, probably to Atlanta, Ga.

"The petitioners claim that between these dates, about the 18th February, they purchased this lard and grease of Bruce & Co. at the price of fifteen cents per pound in Confederate money; and one witness does so testify.

"In the opinion of the district judge, the circumstances of the sale are not stated with such fullness and particularity as to make his statement entirely credible, and from the character of the witness he does not consider his testimony entitled to full faith and credit.

"The lard and grease, not being suitable for family use, was, on the 24th of March,

1862, shipped by B. B. Connor & Bro., per steamer Diana, to Hamilton & Bro., Louisville, Ky., to be sold for manufacturing purposes."

It is shown by the evidence submitted to your committee that the claimants, before shipping the lard, inquired of the captain of the steamer Diana if they could safely ship it without a permit; and the captain assured them that they could.

In 1872 the claimants again presented their case to the Secretary of the Treasury, and asked that the forfeiture be remitted and the money paid to them; but the Secretary answered that the proceeds of the forfeited property had been covered into the Treasury, and it was impossible for him to return the money or to remit the forfeiture.

The claimants next presented their petition to the House of Representatives; and in June, 1874, Mr. Morrison, from the Committee on War Claims, reported a bill for their relief; which bill passed the House, but was not reached in the Senate. In January, 1877, a bill again passed the House of Representatives for relief of claimants, and this bill is the one we are now considering.

The House report on the bill in 1874 was made by Mr. Morrison, and Mr. Caldwell made the report in 1876. He merely adopted Mr. Morrison's report.

Mr. Morrison assumes, apparently without examination, in his report that the claimants were at the time of the libeling of the lard the actual, *bona-fide* owners thereof. We have not been able to reach this conclusion. The property unquestionably belonged to Bruce & Co., meat-packers for the Confederate Government, until the 18th of March, 1862, and the only evidence of a sale to claimants is the statement of John B. Lewis, already quoted. Lewis does not say that Connor & Bro. *actually* paid anything to Bruce & Co.; he merely says "the consideration was 15 cents per pound in Confederate money." Connor & Bro. might well have entertained fears that this property would be seized by the Union military authorities, and they would not be likely to pay much of a consideration for it. Bruce & Co. were doubtless disloyal; Connor & Bro. *claimed* to be loyal.

Bruce & Co. fled the city at the approach of the Federal Army; Connor & Bro. remained.

We are forced to conclude that the alleged sale from Bruce & Co. to Connor & Bro. was a mere sham, designed to prevent the lard from being seized and appropriated by the Federal authorities.

The lard was regularly libeled, and, after a fair and full hearing, was condemned by judgment of the district court; and thereupon the whole matter was presented to Mr. Chase, the Secretary of the Treasury, by the petition of the claimants, supported by all the evidence taken in the case, and the Secretary refused to remit the forfeiture.

The claimants afterward petitioned Secretary Bristow to remit the forfeiture, but, without going into the merits of the claim, he refused to do so, on the ground that the proceeds of the forfeited property had been covered into the Treasury.

We are not satisfied of the loyalty of the claimants. They resided in a seceding State, and hence, *prima facie*, were disloyal. They are called upon to disprove this *prima-facie* case. No evidence upon the question of their loyalty was taken, by deposition or otherwise, under the order of the district court, and none was submitted to the court.

When the claim was presented to Congress, they filed with their petition an affidavit made by George Dickinson and Pink Varble, who swear that they knew the Connors during the entire period of the war, and that they were loyal to the Union. This man Pink Varble was the captain of the steamer Diana, upon which the lard was shipped from Nashville to Louisville. Both the Connors resided in Nashville from the commencement of the war until it was captured by the Federal Army, in March, 1862. Varble did not reside in Nashville during that time, and hence could not have known whether the Connors during that period were loyal or not. This affidavit contains only general statements in regard to the loyalty of claimants. The only additional evidence in regard to loyalty is a general statement in their petition. No facts proving loyalty are set forth in the said affidavit or petition.

In order to recommend the passage of this bill, we must set aside the judgment of the district court, and overrule the decision of Mr. Secretary Chase. We would not feel justified in doing this, and, consequently, recommend that the bill be indefinitely postponed.

Since said report was made the present claimant, B. B. Connor, has taken additional evidence for the purpose of establishing the claim. The evidence so taken was *ex parte*, and was the following, viz:

1. Affidavit of George Dickinson.
2. Affidavit of George G. Fetter.
3. Affidavit of James N. Kellogg.
4. Affidavit of R. H. Crittenden.
5. Affidavit of John B. Lewis.

6. Affidavit of A. H. Gardner.
7. Affidavit of J. C. Van Pelt.
8. Affidavit of Charles B. Cotton.
9. Verified petition of B. B. Connor, the claimant.

The depositions of the witnesses Dickinson, Fetter, Kellogg, and Lewis were taken in the proceedings by libel against the lard in the district court of the United States for the district of Kentucky.

The main purpose of the additional evidence is to prove the *bona fides* of the sale of the lard by E. M. Bruce & Co. to B. B. Connor, Brother & Swan, and the loyalty of the present claimant, B. B. Connor.

Is the *bona fides* of the sale established?

The witness John B. Lewis, in his affidavit, made on the 30th day of October, 1879, swears as follows, viz :

Said Connor, Brother & Swan purchased some 300 packages of lard, amounting to about \$13,000; the price paid was 15 cents per pound (which was then a fair price); they, said Connor, Brother & Swan, paid for said lard in my presence at the price above named.

In his deposition in the libel proceedings this witness, Lewis, testifies as follows, viz :

B. B. Connor, Brother & Swan purchased the lard from E. M. Bruce & Co. on the 18th day of February, 1862, at Nashville, Tenn. After the purchase it was ascertained by them that the lard was not what it was represented to be when they purchased it (prime lard), and they found it would only answer for manufacturing purposes.

He also testifies in this deposition :

Mr. Swan had purchased lard from E. M. Bruce & Co. several times during the season previous to that time, and the transaction was regular and not unusual.

In this deposition Lewis swears in regard to the purchase of the lard :

I was present at the time of the sale of said lard; the consideration was 15 cents in Confederate money. *I do not know the actual value.*

The memorialist, B. B. Connor, in his last memorial, states :

I was doing business as a produce, provision, and commission merchant under the firm name of B. B. Connor & Brother. On the 18th day of February, 1862, I was called on by some one from E. M. Bruce & Co. to know if I would purchase a lot of lard, about 300 packages or tierces, for cash. I do not know which one of the firm called, as I never knew E. M. Bruce or any of his partners then or since. I went and saw the lard or grease and bought it at 15 cents per pound cash, which was a fair market price.

It will be observed that Mr. Connor says in this deposition that *he "went and saw the lard or grease, and bought it at 15 cents per pound cash, which was a fair market price."*

The witness Lewis, as we have seen, testified in the proceedings in the district court that—

After the purchase it was ascertained by them [B. B. Connor, Brother & Swan] that the lard was not what it was represented to be when they purchased it (prime lard), and they found that it would only answer for manufacturing purposes.

We would understand from this that the lard was purchased without inspection by the purchasers.

It appears, then, by the deposition of Lewis, taken in the action in the district court, that the lard was not inspected by the purchasers before the alleged purchase was made; but it seems from the amended petition of the claimant, B. B. Connor, recently taken, that he actually inspected the lard before purchasing. The lard was bought for prime lard, but very soon after the purchase it was discovered not to be such. Connor was in the produce and commission business. Is it likely that he would

buy for prime lard after inspection that which could be used only for manufacturing purposes?

The claimant states in his petition recently filed that "the capture of Fort Donelson or the expected fall of Nashville had no influence on me either in the purchase of the lard or the price."

The witness Lewis testifies in the action in the district court, "At the time of the sale it was difficult to tell what was the actual value of anything." Fort Donelson had fallen. The Federal Army was advancing on Nashville. Alarm and confusion doubtless prevailed in Nashville. Is it likely that Connor, Brother & Swan, in making the alleged purchase, were entirely uninfluenced by the great military operations then going on around them?

Connor, Brother & Swan doubtless knew that the lard was manufactured from hogs belonging to the Confederate Government. They could not have known but it would be claimed and seized by the Federals as Confederate property. It is not probable under these circumstances that any person would purchase the lard and pay full price for it.

Your committee is not yet satisfied that the alleged sale was a *bona fide* sale.

Were B. B. Connor, John Connor, and J. M. Swan, the alleged purchasers, loyal to the Government of the United States at the time of the alleged purchase? They resided in Tennessee, a disloyal State. The presumption is that they were disloyal. Their political status is presumed to accord with that of the State in which they resided. There is no evidence showing or tending to show that John Connor or J. M. Swan was loyal.

B. B. Connor, the present claimant, insists that *he* was loyal. Upon this point James N. Kellogg swears, in his affidavit recently made, as follows:

I, in company with George G. Fetter, called on B. B. Connor, who was then residing at Nashville, Tenn., and doing a provision and commission business, at his store, No. 5 College street, and found a large quantity of meat, bulk pork, which said Connor represented and showed by his books that the meat was left on storage, and by his books showed that he had advanced a small sum of money in comparison with the value of the meat; he did not claim the said bulk pork as his private property.

This witness, in his testimony in the action in the district court, upon this point testifies as follows:

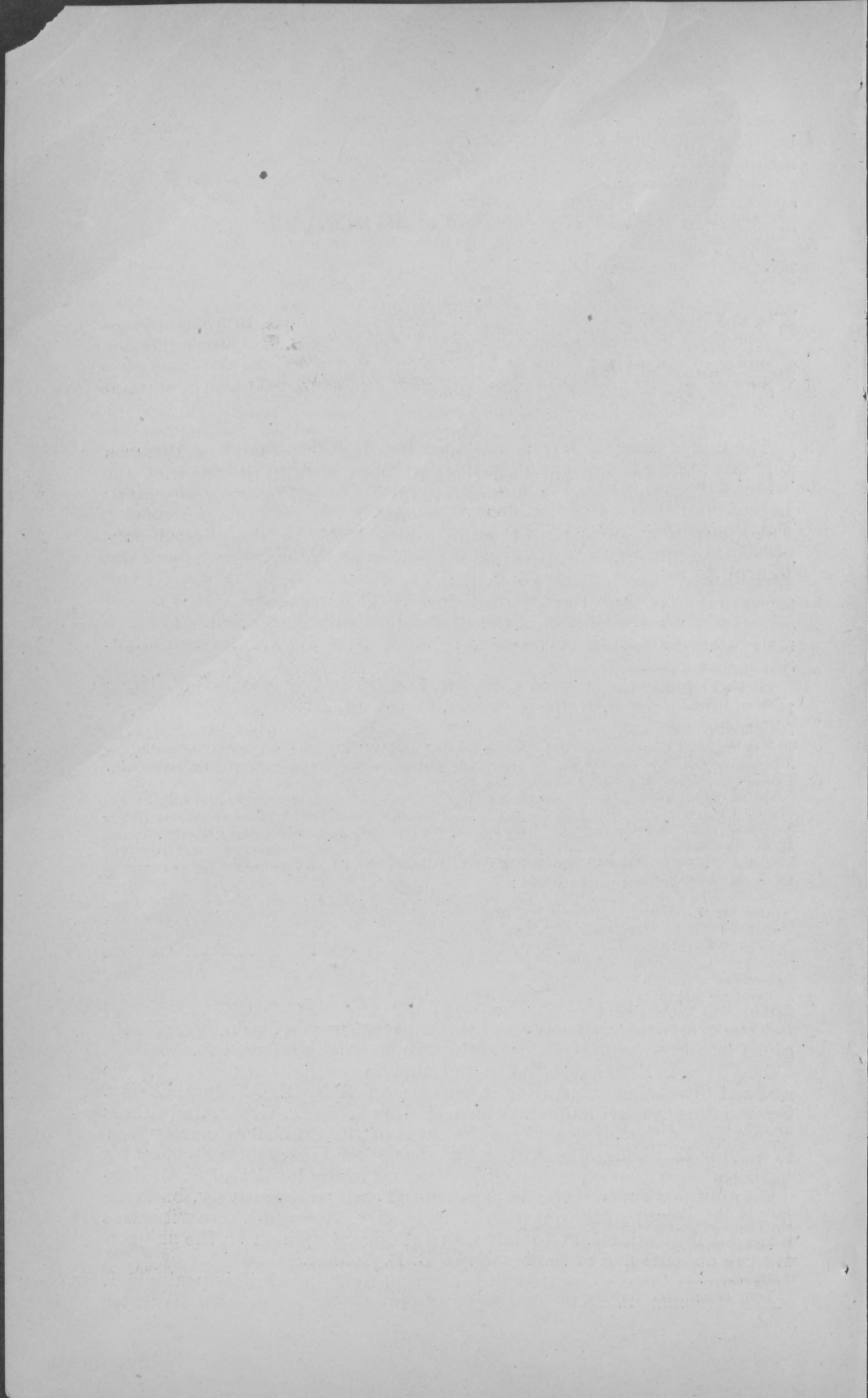
During the month of March, 1862, I was in the employ of the United States Government, among other things to take charge of abandoned Confederate property. When the United States forces reached Nashville, about the 1st of March, 1862, deponent found a lot of pork at the house of Connor & Brother, or Connor & Co., perhaps seventy-five or one hundred thousand pounds. *At first the Connors claimed the pork as their private property*, but soon afterwards said they had a lien or claim on it to the amount of \$2,000 or \$3,000, and if their claim was paid they would surrender it.

Your committee call attention to the discrepancy between the evidence given by the witness Kellogg on the two occasions referred to.

The witness Fetter testified in the suit in the district court that he reached Nashville soon after it was occupied by the Federal Army. On reaching Nashville he was furnished by Kellogg, Grant, and others with a list of the houses where the meat of the Confederate army was to be found; among others, *with the name of the house of the Connors*.

The other witnesses who testify in regard to the loyalty of B. B. Connor do not testify as to the facts showing loyalty affirmatively, but give their opinions upon the question of his loyalty. Some of these witnesses were not in a situation to have an intelligent opinion on the subject. We are not satisfied of the loyalty of B. B. Connor.

We are of the opinion that the bill ought to be indefinitely postponed, and so recommend.



VIEWS OF THE MINORITY.

The undersigned, a minority of the Committee on Claims, to whom was referred the renewed and supplementary petition of B. B. Connor, the sole owner of the alleged claim of B. B. Connor & Brother, the surviving partners of the firm of B. B. Connor, Brother & Swann, submit the following as their views:

The under signed, after an examination of all the papers in this case together with the matters presented in and by the original petition, and which are here referred to, and for all needful purposes are made a part hereof, find the history and facts substantially set forth in the report of the Committee on War Claims, No. 755, Forty-third Congress, first session, by the Hon. Mr. Morrison, which is in the following words and figures, to wit:

[House Report No. 755, Forty-third Congress, first session.]

JUNE 22, 1874.—Committed to a Committee of the Whole House and ordered to be printed.

Mr. MORRISON, from the Committee on War Claims, submitted the following report:

The Committee on War Claims, to whom was referred the petition of B. B. Connor & Brothers surviving partners of the firm of B. B. Connor, Brother & Swann, having considered the same, submit the following report:

In March, 1862, and prior and subsequent thereto, the claimants were doing business at Nashville, Tenn., under the firm-name and style of B. B. Connor, Brother & Swann. The said J. M. Swann has since died, and the said B. B. Connor and his brother, John Connor, are the only surviving members of the firm.

On the 24th day of March, 1862, the said firm shipped on the steamer Diana, from Nashville, Tenn., to Louisville, Ky., one hundred and seventy-four tierces and one hundred and twenty barrels of lard, which, on the 27th day of March, 1862, was seized at Louisville, Ky., by Charles B. Cotton, surveyor of customs for the port of Louisville, because the same was shipped without a permit, in alleged violation of the act of Congress and Treasury regulations.

On the 9th day of April, 1862, the lard was libeled in the district court of the United States for the district of Kentucky. The petitioners made answer, claiming exclusive ownership of the lard, and that they had shipped it without first obtaining a permit because they did not know that a permit was necessary, and claiming that, if they had violated any law or subjected their property to forfeiture, it was by reason of their ignorance of the law and because they had been misinformed.

Pending adjudication, and by consent of all the parties, the lard, being a perishable article, was sold at public auction, the proceeds to await decision of the court. The lard was twice sold; at the first sale, for $3\frac{3}{4}$ cents per pound, but, by the prompt intervention and petition of the claimants, the sale was set aside by the court for irregularity, and it was again sold for $5\frac{1}{2}$ cents per pound.

Subsequently a decree of forfeiture was passed. On the 10th day of May, 1862, the records of the facts and findings of the court were certified to the Secretary of the Treasury, that he might remit the forfeiture. Their prayer for remission was refused; and the court ordered the balance of the money arising from the sale of the lard, which, after deducting certain legal charges and expenses, amounted to \$4,420.32, be paid to W. D. Gallagher, surveyor of the port of Louisville, to be disposed of by him according to law.

The petitioners renewed their application in December, 1872, but the present Secretary of the Treasury replied that the proceeds of the property having been covered into the Treasury, it was impossible for him to restore the money and to remit the forfeiture; that he could not consider the merits of the case, and that the only remedy lay in an application to Congress. Petitioners have since presented their petition to Congress.

Your committee having carefully examined the certified proceedings of the United

States district court, and all the accompanying papers and evidence, are satisfied of the loyalty of the claimants, and that the lard, though shipped without a permit, was shipped in ignorance that such a permit was required on board a steamboat chartered and in the service of the government; that it was shipped openly and in a public manner, without any intention to violate the law and Treasury regulations; that the claimants, before shipping, made due and diligent inquiry of the captain commanding the boat, himself in the government service, and through him of other United States military officers; that claimants were informed, and had a right to believe, and did believe, that no permit was necessary, and that they were in ignorance of any law or trade-regulation forbidding such shipment, and did ship without willful negligence, after due care and diligence, and without intention of fraud.

Your committee report a bill for their relief and recommend its passage.

Mr. Lawrence, on behalf of the minority, expresses a dissent from the foregoing report.

Also, in the report of the Committee on War Claims, No. 634, Forty-fourth Congress, first session, made by the Hon. John H. Caldwell, which is in the following words and figures, to wit:

[House Report No. 634, Forty-fourth Congress, first session.]

JUNE 9, 1876.—Committed to a Committee of the Whole House and ordered to be printed.

Mr. JOHN H. CALDWELL, from the Committee on War Claims, submitted the following report, to accompany bill H. R. 3681:

The Committee on War Claims, to whom was referred the petition of B. B. Connor & Brother, surviving partners of the firm of B. B. Connor, Brother & Swann, having considered the same, submit the following report:

Your committee, after an examination of all the papers in the case, find its history and facts substantially set forth in report of the Committee on War Claims submitted to the Forty-third Congress, and adopt the same as their own conclusions in the premises:

In March, 1862, and prior and subsequent thereto, the claimants were doing business at Nashville, Tenn., under the firm-name and style of B. B. Connor, Brother & Swann. The said J. M. Swann has since died, and the said B. B. Connor and his brother, John Connor, are the only surviving members of the firm.

On the 24th day of March, 1862, the said firm shipped on the steamer Diana, from Nashville, Tenn., to Louisville, Ky., one hundred and seventy-four tierces and one hundred and twenty barrels of lard, which, on the 27th day of March, 1862, was seized at Louisville, Ky., by Charles B. Cotton, surveyor of customs for the port of Louisville, because the same was shipped without a permit, in alleged violation of the act of Congress and Treasury regulations.

On the 9th day of April, 1862, the lard was libeled in the district court of the United States for the district of Kentucky. The petitioners made answer, claiming exclusive ownership of the lard, and that they had shipped it without first obtaining a permit because they did not know that a permit was necessary, and claiming that, if they had violated any law or subjected their property to forfeiture, it was by reason of their ignorance of the law and because they had been misinformed.

Pending adjudication, and by consent of all the parties, the lard, being a perishable article, was sold at public auction, the proceeds to await decision of the court. The lard was twice sold; at the first sale for $3\frac{1}{4}$ cents per pound, but by the prompt intervention and petition of the claimants the sale was set aside by the court for irregularity, and it was again sold for $5\frac{1}{4}$ cents per pound.

Subsequently a decree of forfeiture was passed. On the 10th day of May, 1862, the records of the facts and findings of the court were certified to the Secretary of the Treasury that he might remit the forfeiture. Their prayer for remission was refused, and the court ordered the balance of the money arising from the sale of the lard, which, after deducting certain legal charges and expenses, amounted to \$4,420.32, to be paid to W. D. Gallagher, surveyor of the port of Louisville, to be disposed of by him according to law.

The petitioners renewed their application in December, 1872, but the present Secretary of the Treasury replied that the proceeds of the property having been covered into the Treasury, it was impossible for him to restore the money and to remit the forfeiture; that he could not consider the merits of the case, and that the only remedy lay in an application to Congress. Petitioners have since presented their petition to Congress.

Your committee, having carefully examined the certified proceedings of the United States district court, and all the accompanying papers and evidence, are satisfied of the loyalty of the claimants, and that the lard, though shipped without a permit, was shipped in ignorance that such a permit was required on board a steamboat chartered

and in the service of the government; that it was shipped openly and in a public manner, without any intention to violate the law and Treasury regulations; that the claimants, before shipping, made due and diligent inquiry of the captain commanding the boat, himself in the government service, and through him of other United States military officers; that claimants were informed, and had a right to believe, and did believe, that no permit was necessary, and that they were in ignorance of any law or trade regulation forbidding such shipment, and did ship without willful negligence, after due care and diligence, and without intention of fraud.

Your committee report a bill for their relief, and recommend its passage.

As far as these reports go, the undersigned adopt the same as their own conclusions in the premises.

There was an adverse report, No. 696, of the Committee on Claims, Forty-fourth Congress, second session, by Mr. Cameron, and the undersigned, a minority of said committee, insist that if the grounds of objection in that report are either well taken or in doubt, the evidence taken in this, the supplemental proceedings, removes that doubt or objection, especially when considered in connection with the evidence taken in the original proceedings to which this is a supplement.

The minority are of the opinion, and so find and report, that the evidence of the loyalty of the petitioner and his associates, during and since the late rebellion, to the United States is satisfactory. That the petitioner was the *bona fide* owner of the property seized is sufficiently proven. The facts and circumstances surrounding, and under which he purchased the same, were reasonable, and not such as to impress and stamp the transaction as either fraudulent or pretended, but such as would be altogether consistent with trade and fair dealing. The witness John B. Lewis, who testifies as to the sale and purchase, says he was present and knows that the lard was sold by Bruce & Co. to the petitioner; that he (witness) was the clerk and bookkeeper of Bruce & Co. at the time, and testifies that the petitioner paid for the lard, and that the price paid was 15 cents per pound, which was a fair price therefor. There is nothing in the papers to discredit this witness, much less anything to indicate that the sale and purchase was a sham.

The proof and papers show that the gentlemen who composed the firm of B. B. Connor, Brother & Swann were men of high standing and respectability, and, such being shown to be true, they are entitled to be so considered, and that they, as such, are entitled to the presumption that their purchase was honest and in good faith. The language of the witness John B. Lewis, in his deposition of date 30th October, 1879, among other things, is as follows, viz:

That said Connor, Brother & Swann purchased from E. M. Bruce & Co. some 300 packages of lard, amounting to about \$13,000; the price paid was 15 cents per pound, which was then a fair price. They, said Connor, Brother & Swann, paid for said lard in my presence, at the price above named.

The petitioner and associates are by the evidence satisfactorily shown to have been loyal to the Government of the United States, both by the evidence in support of the original petition and by additional evidence in support of the supplement; by evidence on its face convincing, and without grounds to doubt the credibility of the witnesses who testify affirmatively to the fact of loyalty.

The case went off in the district court of the United States for Kentucky district, upon exceptions to the answer of the petitioner to the libel for information exhibited by Charles B. Cotton, surveyor of the port at Louisville, in the district aforesaid; and the court under the act of the 13th July, 1861, interdicting commerce, &c., between the loyal and disloyal States in the attitude in which the case was when that court passed upon it, could not do otherwise than to condemn the prop-

erty seized under the provisions of the law. The State of Tennessee having been proclaimed to be at that time in a state of rebellion against the United States, fell within the provisions of the law, and the only way out for the petitioners in that court was to produce permits or exculpatory documents as provided by that statute, and not having either, had to submit as a strictly legal question to the rulings of that court. The question there decided was, by a proceeding had in that court, referred to the Treasury Department, which announced that the proceeds of the sale of said seized property, which had been returned to the Treasury were covered into the Treasury. Application was then made to the Secretary of the Treasury, who dismissed the application as presented to him under the act of Congress, July 13, 1861, which required certain permits or licenses from certain officers of the government to meet the demands of that act. As a legal question, neither the district court or the Secretary of the Treasury could have otherwise ruled; leaving the only remedy open for the petitioner, which was to apply to Congress, which he has and now does.

The minority of the committee, after due examination of the evidence and facts of this case, have arrived at the conclusion as regards the intents and purposes of the petitioners in shipping said lard from the city of Nashville to the city of Louisville at the time shown in evidence, and find, and report that the said lard was shipped without willful negligence or any intention of fraud on the part of the shippers; that the inquiries and conduct on the part of the shippers evinced good faith and a willingness to find out and obey the law; that in their efforts to find out the right and do it, they were misled by officers, and those in authority, and in the employment of the government, but who, without intending to mislead them, nevertheless did mislead the petitioners in fact; that these petitioners, officers, and employes of the government should be mistaken and misled is readily accounted for when it is remembered that the disturbed conditions of the country, the recent enactment of the law, the difficulty of its being known and circulated, present a case for tender consideration, when it is apparent the party neither intended fraud nor a violation of the law, and loyal and true to the country as the proof shows the petitioners to be, and had been, and such being true, as shown by the evidence, the rigid and strict features of this law should be tempered by a sense of equity and justice; and so believing and finding, the undersigned, the minority of said committee, report favorably to the claim of the petitioners to the amount specified in the accompanying bill, to wit, the sum of \$4,420.22; the passage of which they recommend.

LUKE PRYOR,
JAMES B. GROOMB.

IN THE SENATE OF THE UNITED STATES.

APRIL 5, 1880.—Ordered to be printed.

Mr. FARLEY, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 809.]

The Committee on Pensions, to whom was referred the bill (S. 809) for the relief of Duncan M. V. Stuart, submit the following report:

Applicant was a second lieutenant, Company B, Tenth Missouri Volunteers, during the late war, and was disabled by a gunshot wound in the right thigh, for which disability, on application at the Pension Bureau, he received one-half pension, which amounts to \$7.50 per month for an officer of his rank. Subsequently, on his application for increase of pension, he was allowed two-thirds pension, or \$10 per month. He then applied for another increase on the ground that his general health had been materially injured by exposure while a prisoner in the hands of the enemy. This claim for increase was suspended by the Commissioner of Pensions for additional evidence connecting the present impaired health with the prison life. The applicant showed in his letters and affidavits to the Pension Office a decided indisposition to assist the office in procuring this evidence, admitting that some of it could be produced, but insisting that the evidence on file was sufficient. The application for increase was then appealed to the Secretary of the Interior, who concurred in the action of the Commissioner, that "the claimant had not proved that the alleged general impairment of health was due to his military service or confinement in rebel prison."

Your committee are of the opinion that no special act of Congress is required in this case, and that the Commissioner should be allowed to decide the claim on the evidence which has been or may be furnished in the case.

ORIGINAL ARTICLES

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